IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 11532 of 2004

Between:

1. Smt. Yeggina Uma Maheswari W/o Sri Yeggina Nageswara Rao

28th Ward, Kobbari Thota Tadepallygudem , W.G.District

2. Vittala Nagasatyaniranjani w/o Sri P.Gangaramachandran

Panchayathi President , west Vipparru, Pentapadu Mandal
W.G.District

..... PETITIONER(S)

AND

The Commissioner Tadepalligudem Municipality
Tadepalligudem West Godavari District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction and more particularly one in the nature of writ of Mandamus, directing the respondent not to demolish any portions of petitioners building/premises bearing Municipal Door Nos. 9-1-6/1(Old) /9-1-1(New) and 9-1-3 situated at K.N. Road, 22nd Ward, Tadepalligudem, West Godavari District pursuant to the proceedings Roc.No.G1/608/2004, dt. 9/06/2004 by declaring the above said proceedings is arbitrary, illegal and contrary to law and is violative of Principles of natural justice

For the Petitioner:MRS.P.V.V.B.RAJESWARI, Advocate

For the Respondent No.: MR.DEGALASRINIVAS, Standing Counsel for Municipality, T.P.Gudem.

The Court at the Admission Stage Made the Following :

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THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 11532 of 2004

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Oral order:

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondent-Municipality.

The only grievance of the petitioners, as submitted by their counsel and as projected in the writ petition, is that the respondent without issuing any notice and without following the due process of law, has passed the impugned order seeking to demolish the building, which according to them, is illegal and arbitrary.

The learned Standing Counsel appearing on behalf of the respondent-Municipality on instructions submitted that the petitioners are constructing the building in deviation of the sanctioned plan, in that, they have not maintained the frontage as per the plan sanctioned by the respondent-Municipality, and therefore, the respondent-Municipality passed the impugned order seeking to demolish the portion of the building which was constructed by the petitioners in deviation of the sanctioned plan.

The impugned order, admittedly is in the nature of final order, in that it seeks to demolish the building of the petitioners, and it is admitted to by the learned Standing Counsel for the respondent-Municipality that no notice whatsoever was issued to the petitioner before the impugned order came to be passed. Inasmuch as the impugned order was not preceded by any notice to the petitioner, the same suffers from the vice of violation of principles of natural justice. Principles of natural

justice demand that before any order adverse to a party is passed, he should be issued notice and provided an opportunity to put forth his version. Since the impugned order was not preceded with any notice, the same cannot be sustained.

In the result, the writ petition is allowed. The impugned order is quashed and set aside. This order, however, does not preclude the respondent-Municipality from issuing notice to the petitioners and take appropriate action after considering the objections that may be filed by the petitioners. Unless and until the respondents issue notice to the petitioners and consider their objections and pass appropriate orders, they shall not resort to any demolition of the building of the petitioners. No costs.

Date: July 7, 2004.

KSR/MRB

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

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1. The Commissioner Tadepalligudem Municipality
Tadepalligudem West Godavari District

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